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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,173	07/08/2003	Guy Dickes		6464

7590 05/21/2004  
GUY DICKES  
6718 CHOKEBERRY RD.  
BALTIMORE, MD 21209

EXAMINER
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MACK, COREY D

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,173

Applicant(s)

DICKES, GUY

Examiner

Corey D. Mack

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because reference numbers should be included to refer to elements of the invention outlined in the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: reference numbers should be listed to refer to elements of the invention; and the brief description of the drawings should include an explanation of the view shown. Appropriate correction is required.

### ***Claim Objections***

3. Claims 1-9 are objected to because of the following informalities: The claims do not comply with current USPTO form. Particularly, the claims fail to include the necessary transitional phrase, such as "comprising" or "including", that indicate the necessary elements of the claim. The claims also fail to indicate which claim they depend from. It is also incorrect form to include the phrase "What I claim as my invention" in the body of the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-9 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

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A. The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker (US 4,474,061).

A. With respect to Claim 1, Parker (US 4,474,061) discloses a process by which the volume within air tight container 10 can be determined using electronic gas mass flow technology (column 2, lines 33-68; column 4, lines 8-44).

B. With respect to Claims 2, Parker (US 4,474,061) discloses the use of regulated pressurized (compressed) air (column 3, lines 5-8).

C. With respect to Claims 3, Parker (US 4,474,061) discloses the use of regulated pressurized (compressed) gas for specialty requirements such as fuel tanks 10.

D. With respect to Claims 4, Parker (US 4,474,061) discloses the use of atmospheric (trapped) air entering the tank 12 (column 2, lines 40-42).

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E. With respect to Claims 5, Parker (US 4,474,061) discloses the use of air 36 being drawn through the sensor with vacuum to determine volume (column 3, lines 12-35).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US 4,474,061) in view of Locatelli (US 6,497,139).

10. With respect to Claim 6, Parker (US 4,474,061) discloses the claimed invention, except he does not explicitly disclose changing sensor size. However, changing the sensor size or shape would be an obvious design choice in order to make the sensor fit a particular container. (See MPEP §2144.04). Therefore, it would have been obvious to one of ordinary skill in the art to include in Parker (US 4,474,061) changing the sensor size for the purpose of fitting varying size containers.

11. With respect to Claims 7 and 8, Parker (US 4,474,061) discloses the claimed invention, except he does not explicitly disclose using partial pressure or vacuum. It is well-known by those of ordinary skill in the art of flow/volume measurement to utilize partial pressure or vacuum in order to manipulate flow characteristics. (See MPEP § 2144.03). Therefore, it would have been obvious to one of ordinary skill in the art to include in Parker (US 4,474,061) the use of partial pressure or vacuum to manipulate flow characteristics.

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12. With respect to Claim 9, Parker (US 4,474,061) discloses the claimed invention, except he does not explicitly disclose locating leaks with water and soap solution. However, it is notoriously well-known to use a soap and water solution in order to locate a leak on a pressurized container. Therefore, it would have been obvious to one of ordinary skill in the art to include in Parker (US 4,474,061) the use a soap and water solution in order to locate a leak on a pressurized container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey D. Mack whose telephone number is (571) 272-2181. The examiner can normally be reached on M-F, 8:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CDM

Corey D. Mack, Esq.  
Patent Examiner  
Art Unit 2855

May 14, 2004

  
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SUPERVISORY PATENT EXAMINER  
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